



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,867	03/15/2001	Michael John Bradley Kutryk	1133279-0003	5578
7470	7590	12/12/2005	EXAMINER	
WHITE & CASE LLP PATENT DEPARTMENT 1155 AVENUE OF THE AMERICAS NEW YORK, NY 10036			CHATTOPADHYAY, URMI	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,867

Applicant(s)

KUTRYK ET AL.

Examiner

Urmi Chattopadhyay

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-27,29-42,45,46,48,51-55 and 62-79 is/are pending in the application.
- 4a) Of the above claim(s) 10-17,33-37,48 and 51-55 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4-9,18,20-27,29-32,38,39,41,42,45,46 and 62-79 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 19 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This application is in condition for allowance except for the formal matters set forth below. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Request for Continued Examination

2. The request filed on 11/7/05 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on Application No. 09/808,867 is acceptable and a RCE has been established. An action on the RCE follows.

Response to Amendment

3. The Amendment filed 11/7/05 has been entered. The change to the abstract has been approved by the examiner, and new claims 77-79 have been entered. Claims 1, 2, 4-27, 29-42, 45, 46, 48, 51-55 and 62-79 are currently pending.

4. The Declaration under 37 CFR 1.132 filed 11/7/05 is sufficient to overcome the rejection of claims 1, 2, 4, 5, 7-9, 18, 20-25, 27, 29-32, 38, 39, 63, 64, 67, 70, 71, 74 and 75 based upon Dekker et al. (*Thrombosis and Haemostasis*, "Improved Adhesion and Proliferation of Human Endothelial Cells on Polyethylene Precoated with Monoclonal Antibodies Directed Against Cell Membrane Antigens and Extracellular Matrix Proteins") and Richmond et al. (USPN 5,310,669) applied under 35 U.S.C. 103(a).

Election/Restrictions

5. Claims 1, 18, 25, 29, 38 and 41 are generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 6, 19, 26, 40, 42, 46, 62, 66, 69 and 73, directed to non-elected species are no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim. However, claims 10-17, 33-37, 48 and 51-55, directed to non-elected species remain withdrawn from consideration since they do not depend upon or otherwise include all the limitations of an allowed generic claim as required by 37 CFR 1.141. Claims 10-17, 33-37, 48 and 51-55 should now be canceled.

6. In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claim Objections

7. No longer withdrawn claims 19 and 40 are objected to because of the following informalities:

Art Unit: 3738

a) Claim 19, each of the listed elements is already included in the listing of elements of claim 20, and therefore, does not further limit claim 18 in a manner different from claim 20. The examiner suggests canceling claim 19.

b) Claim 40 is dependent on claim 36 or claim 38. Because claim 36 is a withdrawn claim that should now be canceled, "36 or" should be deleted from claim 40.

Appropriate correction is required.

Double Patenting

8. The provisional obviousness-type double patenting rejection by copending application 10/360,567 previously set forth has been withdrawn.

Allowable Subject Matter

9. Claims 1, 2, 4-9, 18, 20-27, 29-32, 38, 39, 41, 42, 45, 46 and 62-79 are allowed.

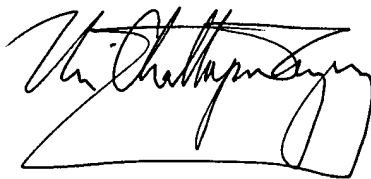
10. Claims 19 and 40 are objected to, but are allowable over the prior art.

Art Unit: 3738

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urmi Chattopadhyay whose telephone number is (571) 272-4748. The examiner can normally be reached Monday through Thursday and every other Friday from 9:00am to 6:30pm.

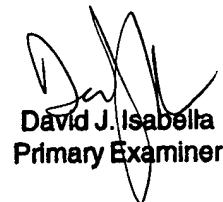
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached at (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Urmi Chattopadhyay

Art Unit 3738



David J. Isabella
Primary Examiner